

#3

Atto 's Docket No.: 06128-266001

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jimmy Tsen et al.  
Serial No. : 09/994,439  
Filed : November 26, 2001  
Title : SHOE

Art Unit : 3758  
Examiner : Unknown

**RECEIVED**

APR 11 2002

OFFICE OF PETITIONS

Commissioner for Patents  
Washington, D.C. 20231

PETITION ON BEHALF OF JOINT INVENTOR UNDER 37 C.F.R. 1.47(a) TO PROCEED  
UPON REFUSAL OF OTHER JOINT INVENTORS

This petition under 37 C.F.R. 1.47(a) is made on behalf of the joint inventor, Jonathan Beardsley, who seeks to make this application on behalf of himself and his joint inventors, Jimmy Tsen, Jason L. Nevens and Matthew Sumner, each of whom has failed to join in this application for patent.

The last known address for each of these joint inventors, with their last date of employment by the assignee of this invention, is as follows:

Jimmy Tsen  
314 Springbrook Circle  
Portsmouth, NH 03801

November 30, 2001

Jason L. Nevens  
4 Lake Bellevue Drive, #107  
Bellevue, WA 98005

July 5, 2001

Matthew Sumner  
71 Montclair Avenue  
Quincy, MA 02171

October 1, 2001

Submitted in support of this petition are the following documents:

1. A Combined Declaration and Power of Attorney signed by Jonathan Beardsley

## CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

04/09/2002 YPOLITE1 00000049 061050 09994439

01 FC:122 130.00 CH

Date of Deposit

APRIL 9 2002

Signature

TIMOTHY A. FRENCH

Typed or Printed Name of Person Signing Certificate

2. A check in the amount of \$130.00 in payment of the fee required under 37 CFR 1.17(h) for this petition.

3. A declaration under 37 CFR 1.47(a) documenting refusal by the joint inventor, Jimmy Tsen, to join in this patent application, the declaration being made by Rita M. Liston, a person knowledgeable with the effort to actual facts.

4. A declaration under 37 CFR 1.47(a) documenting refusal by the joint inventor, Jason L. Nevens, to join in this patent application, the declaration being made by Rita M. Liston, a person knowledgeable with the actual facts.

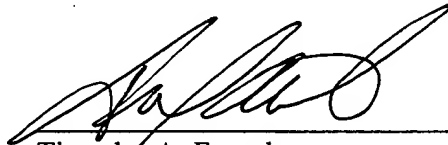
5. A declaration under 37 CFR 1.47(a) documenting refusal by the joint inventor, Matthew Sumner, to join in this patent application, the declaration being made by Rita M. Liston, a person knowledgeable with the actual facts.

Please contact the undersigned if additional information is required in connection with consideration of this Petition.

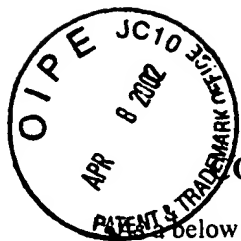
Please apply any additional charges, or make any credits, to Deposit Account No. 06-1050.

Respectfully submitted,

Date: April 3, 2002

  
\_\_\_\_\_  
Timothy A. French  
Reg. No. 30,175

Fish & Richardson P.C.  
225 Franklin Street  
Boston, Massachusetts 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

**COMBINED DECLARATION AND POWER OF ATTORNEY****RECEIVED**

APR 11 2002

**OFFICE OF PETITIONS**

below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled SHOE, the specification of which:

☐ is attached hereto.☒ was filed on November 26, 2001 as Application Serial No. 09/994,439 and was amended on \_\_\_\_\_.☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim the benefit under Title 35, United States Code, §119(e)(1) of any United States provisional application(s) listed below:

<u>U.S. Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
60/253,286	November 27, 2000	Pending

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information I know to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>U.S. Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
------------------------	--------------------	---------------

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

<u>Country</u>	<u>Application No.</u>	<u>Filing Date</u>	<u>Priority Claimed</u>
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Timothy A. French, Reg. No. 30,175  
David L. Feigenbaum, Reg. No. 30,378

William E. Booth, Reg. No. 28,933  
John F. Hayden, Reg. No. 37,640

Address all telephone calls to TIMOTHY A. FRENCH at telephone number (617) 542-5070.

Address all correspondence to TIMOTHY A. FRENCH at:

FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, Massachusetts 02110-2804

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

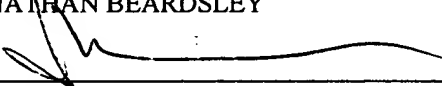
Full Name of Inventor: JIMMY TSEN

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence Address: 314 Springbrook Circle, Portsmouth, NH 03801  
Citizenship: \_\_\_\_\_  
Post Office Address: 314 Springbrook Circle, Portsmouth, NH 03801

Full Name of Inventor: JASON L. NEVENS

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005  
Citizenship: United States  
Post Office Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005

Full Name of Inventor: JONATHAN BEARDSLEY

Inventor's Signature:  \_\_\_\_\_ Date: 3/25/02  
Residence Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169  
Citizenship: United States  
Post Office Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169

Full Name of Inventor: MATTHEW SUMNER

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence Address: 71 Montclair Avenue, Quincy, MA 02171  
Citizenship: United States  
Post Office Address: 71 Montclair Avenue, Quincy, MA 02171

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled SHOE, the specification of which:

- ☐ is attached hereto.  
☒ was filed on November 26, 2001 as Application Serial No. 09/994,439 and was amended on \_\_\_\_\_.  
☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_.

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U.S. Serial No.	Filing Date	Status
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U.S. Serial No.	Filing Date	Status

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Country	Application No.	Filing Date	Priority Claimed
			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

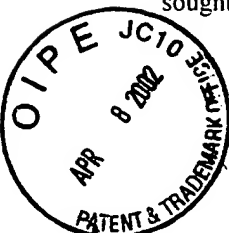
I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Timothy A. French, Reg. No. 30,175  
 David L. Feigenbaum, Reg. No. 30,378

William E. Booth, Reg. No. 28,933  
 John F. Hayden, Reg. No. 37,640

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225 Franklin Street  
Boston, Massachusetts 02110-2804

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full Name of Inventor: JIMMY TSEN

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence Address: 314 Springbrook Circle, Portsmouth, NH 03801  
Citizenship: \_\_\_\_\_  
Post Office Address: 314 Springbrook Circle, Portsmouth, NH 03801

Full Name of Inventor: JASON L. NEVENS

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005  
Citizenship: United States  
Post Office Address: 4 Lake Bellevue Drive, #107, Bellevue, WA 98005

Full Name of Inventor: JONATHAN BEARDSLEY

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169  
Citizenship: United States  
Post Office Address: 127 Faxon Park Road, Apt. 2, Quincy, MA 02169

Full Name of Inventor: MATTHEW SUMNER

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence Address: 71 Montclair Avenue, Quincy, MA 02171  
Citizenship: United States  
Post Office Address: 71 Montclair Avenue, Quincy, MA 02171

ASSIGNMENT

For valuable consideration, we, JIMMY TSEN of Portsmouth, NH, JASON L. NEVENS of Bellevue, WA, JONATHAN BEARDSLEY of Quincy, MA, and MATTHEW SUMNER of Quincy, MA, hereby assign to:

The Keds Corporation, a Massachusetts corporation having a place of business at:

The Stride Rite Corporation  
191 Spring Street  
O.O. Box 9191  
Lexington, MA 02173-9191; and

its successors and assigns (collectively hereinafter called "the Assignee"), the entire right, title and interest throughout the world in the inventions and improvements which are subject of a U.S. provisional application No. 60/253,286, filed November 27, 2000 and entitled, and an application for United States Patent signed by us, entitled SHOE, filed November 26, 2001, and assigned U.S. Serial Number 09/994,439, and we authorize and request the attorneys appointed in said application to hereafter complete this assignment by inserting above the filing date and serial number of said application when known; this assignment including said application, any and all United States and foreign patents, utility models, and design registrations granted for any of said inventions or improvements, and the right to claim priority based on the filing date of said application under the International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the European Patent Convention, and all other treaties of like purposes; and we authorize the Assignee to apply in all countries in our name or in its own name for patents, utility models, design registrations and like rights of exclusion and for inventors' certificates for said inventions and improvements; and we agree for ourselves and our respective heirs, legal representatives and assigns, without further compensation to perform such lawful acts and to sign such further applications, assignments, Preliminary Statements and other lawful documents as the Assignee may reasonably request to effectuate fully this assignment.

IN WITNESS WHEREOF, I hereto set my hand and seal at \_\_\_\_\_,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
JIMMY TSEN L.S.

State of \_\_\_\_\_ :  
: ss.  
County of \_\_\_\_\_ :

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, personally  
appeared JIMMY TSEN known to me to be the person whose name is subscribed to the  
foregoing Assignment and acknowledged that he executed the same as his free act and deed for  
the purposes therein contained.

\_\_\_\_\_  
Notary Public

My Commission Expires:

[Notary's Seal Here]

IN WITNESS WHEREOF, I hereto set my hand and seal at \_\_\_\_\_,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_  
JASON L. NEVANS

State of \_\_\_\_\_ :  
: ss.  
County of \_\_\_\_\_ :

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, personally  
appeared JASON L. NEVENS known to me to be the person whose name is subscribed to the  
foregoing Assignment and acknowledged that he executed the same as his free act and deed for  
the purposes therein contained.

\_\_\_\_\_  
Notary Public

My Commission Expires:

[Notary's Seal Here]

IN WITNESS WHEREOF, I hereto set my hand and seal at \_\_\_\_\_,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
JONATHAN BEARDSLEY L.S.

State of \_\_\_\_\_ :  
: ss.

County of \_\_\_\_\_ :

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, personally  
appeared JONATHAN BEARDSLEY known to me to be the person whose name is subscribed  
to the foregoing Assignment and acknowledged that he executed the same as his free act and  
deed for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My Commission Expires:

[Notary's Seal Here]

IN WITNESS WHEREOF, I hereto set my hand and seal at \_\_\_\_\_,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

L.S.

\_\_\_\_\_  
MATTHEW SUMNER

State of \_\_\_\_\_ :

: ss.

County of \_\_\_\_\_ :

Before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally  
appeared MATTHEW SUMMER known to me to be the person whose name is subscribed to  
the foregoing Assignment and acknowledged that he executed the same as his free act and deed  
for the purposes therein contained.

\_\_\_\_\_  
Notary Public

My Commission Expires:

[Notary's Seal Here]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

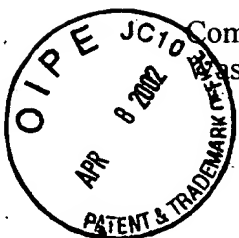
Applicant : Jimmy Tsen et al.  
Serial No. : 09/994,439  
Filed : November 26, 2001  
Title : SHOE

Art Unit : 3728  
Examiner : Unknown

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APR 11 2002

OFFICE OF PETITIONS



Commissioner for Patents  
Washington, D.C. 20231

DECLARATION UNDER 37 CFR 1.47(a) AS TO JOINT INVENTOR, JIMMY TSEN

I, Rita M. Liston, having firsthand knowledge of the facts below, declare the following with respect to refusal by the joint inventor, Jimmy Tsen, to join in the above-captioned application for patent:

1. I am a legal secretary at Fish & Richardson P.C ("F&R"), with thirteen years experience in prosecution of matters before the USPTO.

2. On or about March 12, 2002, at the instructions of Timothy A. French (Reg. No. 30,175), attorney of record in this matter, I contacted Donna Holden at The Stride Rite Corporation, assignee for the invention of this application, to obtain the last known address for Jimmy Tsen, a joint inventor for this application. The address provided from company records was as follows:

314 Springbrook Circle

Portsmouth, New Hampshire 3801

3. At the further instructions of Mr. French, I prepared an application letter, dated March 12, 2002, to Mr. Tsen, enclosing a copy of this patent application as filed with the USPTO on

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

Signature

Typed or Printed Name of Person Signing Certificate

April 3, 2002

A handwritten signature in black ink, appearing to read "Timothy A. French".

Timothy A. French

November 26, 2001, with instructions for careful review of the application and signature of the Combined Declaration and Power of Attorney attached to the application. The Combined Declaration and Power of Attorney was prepared for signature by all of the joint inventors (Jimmy Tsen, Jason L. Nevens, Jonathan Beardsley and Matthew Sumner). A copy of the letter, which was subsequently signed by Mr. French, is attached hereto as Exhibit A.

4. On March 13, 2002, I placed the letter, with the patent application and attached Combined Declaration and Power of Attorney, addressed to Mr. Tsen at address listed above, in U.S. Certified Mail, First Class. A copy of the Certified Mail Receipt, bearing the postmark of the U.S. Postal Service Fort Point Station, dated March 13, 2002, with the address listed above, is attached hereto as Exhibit B.

5. On March 16, 2002, a person purporting to be Jimmy Tsen signed for the letter with the patent application and attached Combined Declaration and Power of Attorney. A copy of the completed Domestic Return Receipt, bearing a signature purported to be that of Mr. Tsen and dated March 16, 2002, is attached hereto as Exhibit C.

6. Mr. Tsen has not returned the signed Combined Declaration and Power of Attorney and no other communication has been received.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States

Applicant : Jimmy Tsen et al.  
Serial No. : 09/994,439  
Filed : November 26, 2001  
Page : 3

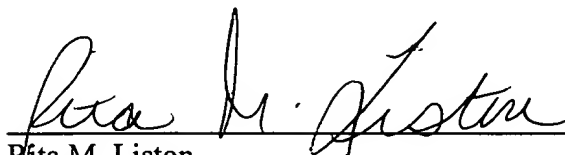
Attorney's Docket No.: 06128-266001

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: \_\_\_\_\_

4-3-2002

Rita M. Liston



Please direct any correspondence concerning this declaration to:

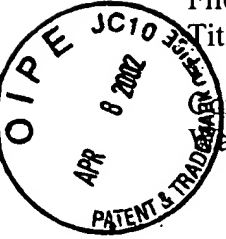
Timothy A. French  
Registration No. 30,175  
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Facsimile: (617) 542-8906

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Title : SHOE

Art Unit : 3728  
Examiner : Unknown

Commissioner for Patents  
Washington, D.C. 20231



DECLARATION UNDER 37 CFR 1.47(a) AS TO JOINT INVENTOR, JASON L. NEVENS

I, Rita M. Liston, having firsthand knowledge of the facts below, declare the following with respect to refusal by the joint inventor, Jason L. Nevens, to join in the above-captioned application for patent:

1. I am a legal secretary at Fish & Richardson P.C ("F&R"), with thirteen years experience in prosecution of matters before the USPTO.

2. On or about March 12, 2002, at the instructions of Timothy A. French (Reg. No. 30,175), attorney of record in this matter, I contacted Donna Holden at The Stride Rite Corporation, assignee for the invention of this application, to obtain the last known address for Jason L. Nevens, a joint inventor for this application. The address provided from company records was as follows:

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Signature

Timothy A. French

Typed or Printed Name of Person Signing Certificate

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5. On March 19, 2002, a person purporting to be Jason L. Nevens signed for the letter with the patent application and attached Combined Declaration and Power of Attorney. A copy of the completed Domestic Return Receipt, bearing a signature purported to be that of Mr. Nevens and dated March 19, 2002, is attached hereto as Exhibit C.

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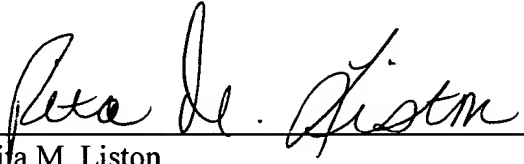
Applicant : Jimm [redacted] en et al.  
Serial No. : 09/994,439  
Filed : November 26, 2001  
Page : 3

Attorney's Docket No.: 06128-266001

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Date: \_\_\_\_\_

4-3-2002

  
\_\_\_\_\_  
Rita M. Liston

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